

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>RHONDA SCHMIDT</b>	)	<b>CASE NO. 1:19-cv-1605</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE DAN AARON POLSTER</b>
	)	
<b>vs.</b>	)	<b><u>OPINION AND ORDER</u></b>
	)	
<b>LINCOLN ELECTRIC COMPANY, et al.,</b>	)	
	)	
<b>Defendant.</b>	)	

This case is before the Court on the Report and Recommendation of Magistrate Judge Jonathan D. Greenberg (“R&R”), **Doc #: 13**. The Magistrate Judge recommends that Plaintiff Rhonda Schmidt’s motion for remand, **Doc #: 8**, be granted.

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1) (emphasis added). In this case, the R&R was issued on December 2, 2019. It is now December 17, 2019, and Schmidt has yet to file any written objection to the R&R. The failure to timely file written objections to an R&R constitutes a waiver of a *de novo* review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Despite the lack of objections, the Court has reviewed the Magistrate Judge's thorough, well-written R&R. This case involves an issue on which there is little guidance from the Sixth Circuit – the definition of “other paper” under 28 U.S.C. § 1446(b)(3). To prevent the wasteful expenditure of judicial and private resources, courts generally decide close questions on subject matter jurisdiction in favor of remand. *See Sanders v. Arctic Cat, Inc.*, Case No. 5:15-cv-2286, 2016 U.S. Dist. LEXIS 48363, at \*2 (N.D. Ohio April 11, 2016) (quoting *Coyne v. Am. Tobacco Co.*, 183 F.3d 884, 496 (6<sup>th</sup> Cir. 1994)). Ultimately, the Court agrees with the reasoning of the Magistrate Judge and the authorities upon which he relies that the email from Lincoln Electric's counsel does not constitute “other paper” under § 1446(b)(3) and so removal was not proper. The Court also agrees with the Magistrate Judge's finding that it need not reach the issue of bad faith under the terms of § 1446(c)(1).

Therefore, the Court **ADOPTS** the R&R, **Doc #: 13**. Accordingly, the Court hereby **GRANTS** Schmidt's motion for remand, **Doc #: 8**.

**IT IS SO ORDERED.**

/s/ Dan A. Polster      December 17, 2019  
Dan Aaron Polster  
United States District Judge